

1 LINDA M. LAWSON (Bar No. 77130)
1 LLawson@mhmllp.com
2 KHRYS WU (Bar No. 219041)
2 KWu@mhmllp.com
3 MESERVE, MUMPER & HUGHES LLP
3 300 South Grand Avenue, 24th Floor
4 Los Angeles, California 90071-3185
4 Telephone: (213) 620-0300
5 Facsimile: (213) 625-1930

6 Attorneys for Defendant
7 COLORADO BANKERS LIFE INSURANCE
COMPANY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LESLIE HUMPHREY, Plaintiff, vs. COLORADO BANKERS LIFE INSURANCE COMPANY, and DOES 1 through 50, inclusive, Defendant. } Case No. C08-02559 EMC } JOINT REPORT OF THE PARTIES FOLLOWING RULE 26(f) MEETING [F.R.C.P. 16 and 26] Date: August 27, 2008 Time: 1:30 p.m. Ctrm: C

Pursuant to the Federal Rules of Civil Procedure, Rules 16 and 26(f), this Court's Order, and the Local Rules of this Court, plaintiff LESLIE HUMPHREY ("Plaintiff") and defendant COLORADO BANKERS LIFE INSURANCE COMPANY ("CBL"), by and through their respective counsel of record, hereby submit this Joint Report.

(a) Synopsis of Case:

Plaintiff seeks relief for breach of contract, breach of the implied covenant of good faith and fair dealing and fraud. These claims arise out of Plaintiff's alleged entitlement to benefits under the Critical Condition Accelerated Benefit Rider of a Renewable and Convertible Term Life Policy (the "Policy") issued by CBL.

1 In or about September 2007, Plaintiff filed a claim for benefits under the
 2 Policy, alleging that he was entitled to benefits in that he was diagnosed with
 3 hepatocellular carcinoma (liver cancer) with hepatitis C. CBL obtained Plaintiff's
 4 medical records and conducted an investigation of his claim. On or about January
 5 17, 2008, CBL denied Plaintiff's claim.

6

7 (b) **Key Legal Issues:**

8 1. Whether Plaintiff is entitled to benefits pursuant to the terms and
 9 conditions of the Policy.

10 2. Whether CBL breached its duty of good faith and fair dealing in the
 11 handling of Plaintiff's claim for benefits.

12 3. Whether CBL is liable to Plaintiff for fraud.

13 4. Whether CBL should pay damages to Plaintiff in the form of
 14 compensatory and/or punitive damages.

15

16 (c) **Motions to add other parties or claims, file amended pleadings or**
 17 **transfer venue:**

18 CBL does not anticipate any motions to add parties, to file amended
 19 pleadings, or to transfer venue. Plaintiff does not anticipate doing so at this time,
 20 but reserves his right to do so.

21

22 (d) **Discovery and Experts:**

23 1. **Disclosures per FRCP 26(a)**

24 Pursuant to the Court's Order Setting Initial Case Management Conference
 25 and ADR Deadlines, initial disclosures will be served on or before August 20, 2008.

26 2. **The Subjects and Forms of Discovery**

27

28

1 Plaintiff anticipates that his discovery will address the alleged acts and/or
 2 omissions of CBL which Plaintiff contends give rise to the claims for relief asserted
 3 in the Complaint.

4 CBL's discovery will address the issues surrounding Plaintiff's medical
 5 condition, as well as Plaintiff's claimed damages.

6 **3. Expert Disclosures**

7 The parties propose that expert witness disclosures pursuant to F.R.C.P.
 8 26(a)(2) be conducted 60 days before the trial date, unless the parties later stipulate
 9 otherwise.

10

11 (e) **Motions for Summary Judgment:**

12 At this time, the parties do not anticipate the filing of any dispositive motions.
 13 However, the parties reserve the right to file any dispositive motions as discovery
 14 progresses.

15

16 (f) **Settlement Discussions:**

17 The parties are exploring an early resolution to this matter. The parties have
 18 stipulated to pursue private ADR, with a cut-off date of December 31, 2008.

19

20 (g) **Trial:**

21 The parties estimate that the trial of this matter will last no more than 5 days.
 22 Plaintiff has demanded a jury trial in his Complaint.

23

24 (h) **Proposed Dates:**

25 a. Amendment of Pleadings:	<u>September 29, 2008</u>
26 b. ADR Completion:	<u>December 31, 2008</u>
27 c. Discovery Cut-Off (incl. related motions):	<u>March 16, 2009</u>
28 d. Expert Witness Exchange Deadline:	<u>April 30, 2009</u>

1 e. Motion hearing Cut-Off: May 11, 2009
2 f. Final Pre-Trial Conference: June 15, 2009
3 g. Trial: June 30, 2009
4

5 (i) **Other Issues:**

6 None.

7 Dated: August 19, 2008

MESERVE, MUMPER & HUGHES LLP
LINDA M. LAWSON
KHYRS WU

10 By: 

11 Khrys Wu
12 Attorneys for Defendant
13 COLORADO BANKERS LIFE
14 INSURANCE COMPANY

15 Dated: August 18, 2008

MANNION & LOWE
E. GERARD MANNION
WESLEY M. LOWE

16 By: Wesley M. Lowe

17 Wesley M. Lowe
18 Attorneys for Plaintiff
19 LESLIE HUMPHREY